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RULES AND REGULATIONS

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1200

[Docket No. NHTSA-2012-0137]

RIN 2127-AL29

State Graduated Driver Licensing Incentive Grant

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM)

SUMMARY: This NPRM seeks public comment on the minimum qualification criteria for the State Graduated Driver Licensing (GDL) Incentive Grant program authorized under the Moving Ahead for Progress in the 21st Century Act (MAP-21). MAP-21 authorizes grants for States that implement multi-stage licensing systems that require novice drivers younger than 21 years of age to comply with the requirements and process set forth below before receiving an unrestricted driver's license. NHTSA will consider comments in developing a rule implementing the GDL requirements under MAP-21.

DATES: Written comments may be submitted to NHTSA and must be received on or before **[INSERT DATE 20 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments to NHTSA may be submitted using any one of the following methods:

- *Mail*: Send comments to: Docket Management Facility, M-30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590.
- *Fax*: Written comments may be faxed to (202) 493–2251.
- *Internet*: To submit comments electronically, go to the US Government regulations Web site at <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Hand Delivery*: If you plan to submit written comments by hand or courier, please do so at 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., Eastern Time, Monday through Friday, except Federal holidays.

Whichever way you submit your comments, please remember to identify the docket number of this document within your correspondence. The docket may be accessed via telephone at (202) 366–9324.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading in the "Supplementary Information" section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Privacy Act: Please see the Privacy Act heading under Rulemaking Analyses and Notices.

Docket: All documents in the dockets are listed in the <http://www.regulations.gov> index. Publicly available docket materials are available either electronically in

www.regulations.gov or in hard copy at the Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC. The Docket Management Facility is open between 9 a.m. and 5 p.m., Eastern Time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

For program issues: Dr. Mary D. Gunnels, Associate Administrator, Regional Operations and Program Delivery, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, NTI-200, Washington, D.C. 20590. Telephone: (202) 366-2121. E-mail: Maggi.Gunnels@dot.gov. *For legal issues:* Mr. Russell Krupen, Attorney-Advisor, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, NCC-113, Washington, D.C. 20590. Telephone: (202) 366-1834. E-mail: Russell.Krupen@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 6, 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21) was enacted into law (Pub. L. 112-141). Section 31105 of MAP-21 amended 23 U.S.C. 405 to consolidate several grant programs to address national priorities for reducing highway deaths and injuries. MAP-21 also created new grant programs under Section 405, including one for states that adopt and implement graduated driver's licensing (GDL) laws.

All 50 states have enacted GDL laws as a means of providing a safe transition for novice drivers to the driving task. A GDL system generally consists of a multi-staged process for issuing driver's licenses to young, novice drivers. During the first stage, the

applicant generally is issued a learner's permit and may operate a motor vehicle only while under the supervision of a licensed driver over the age of 21. During the second stage, the applicant is issued an intermediate (also called a provisional or restricted) license and may operate a motor vehicle without a supervising adult, but only under certain conditions. Additional restrictions also generally apply during these first two stages. Once drivers meet all of the conditions and restrictions of the first two stages, they can then earn an unrestricted driver's license. Some of the significant benefits of GDL systems are that young drivers are able to gain valuable driving experience under controlled circumstances, and they must demonstrate responsible driving behavior and proficiency to move through each level of the system before graduating to the next.

States have various approaches to the requirements and restrictions associated with each GDL stage. Although evaluations clearly show the benefits of adopting GDL laws, these benefits vary greatly across states depending upon the approaches taken. A NHTSA-supported study by Johns Hopkins University, released in June 2006, found that States that have comprehensive GDL programs had a 20-percent reduction in fatal crashes involving 16-year-old drivers. A recent study by the Insurance Institute for Highway Safety ranked States by the strength of their GDL laws and found that strong GDL programs were associated with 30 percent lower fatal crash rates among 15-17 year-olds compared to weak licensing programs. NHTSA publishes research and information on teen driver safety, including the benefits of GDL systems, on its website at <http://www.nhtsa.gov/Driving+Safety/Driver+Education>.

Under a previous authorization, enacted in 1998, Congress expanded the criteria that States could use to satisfy the requirements for an alcohol-impaired driving

prevention program incentive grant to include the adoption of a GDL system. *See* Pub. L. 105-178, Sec. 2004 (The Transportation Equity Act for the 21st Century [TEA-21]) (formerly codified at 23 U.S.C. 410). The agency issued an interim final rule implementing these provisions on December 29, 1998, 63 FR 71688, and a final rule on July 28, 2000, 65 FR 46344. In 2005, Section 2007 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59) eliminated the GDL system criterion, and MAP-21 repealed the Section 410 program as it consolidated the various grants into the Section 405 program.

MAP-21 reintroduces an incentive for States to implement GDL systems by authorizing a grant program under the amended Section 405 program. The statute sets forth minimum qualification criteria, permitted exceptions, grant allocation requirements, and limitations on the use of grant funds that are awarded. The fifty States, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands are each eligible to apply for a GDL grant. In setting forth the minimum qualification criteria for the GDL grant, MAP-21 is very prescriptive; few, if any, potential applicants currently meet all of the minimum qualification criteria prescribed by MAP-21. This NPRM describes the basic structure of the MAP-21 GDL Incentive Grant and seeks public comment to assist the agency in promulgating a rule implementing those minimum qualification criteria.

II. Minimum Qualification Criteria

MAP-21 specifies a “2-stage licensing process” for a qualifying GDL program. Specifically, in order to receive an incentive grant, a State’s driver’s license law must

require novice drivers younger than 21 years of age to comply with a “learner’s permit stage” and an “intermediate stage” before receiving an unrestricted driver’s license.

MAP-21 requires that the State GDL system begin with a learner’s permit stage that is at least six months in duration and remains in effect until the driver reaches 16 years of age and enters the intermediate stage or reaches 18 years of age. The learner’s permit stage must prohibit the driver from using a cellular telephone or any communications device in a non-emergency situation.

Under MAP-21, the State GDL system must include an intermediate stage that commences immediately after the expiration of the learner’s permit stage, is at least six months in duration, and remains in effect until the driver reaches 18 years of age. The intermediate stage must restrict driving at night and prohibit the driver from operating a motor vehicle with more than 1 non-familial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle. Finally, as with the learner’s permit stage, the intermediate stage must prohibit the driver from using a cellular telephone or any communications device in a non-emergency situation.

MAP-21 allows the agency to prescribe additional requirements beyond those described above for GDL systems. In allowing this discretion, the statute identifies the following criteria for consideration: During the learner’s permit stage, requiring (1) at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age, (2) a driver training course, and (3) the driver to be accompanied and supervised by a licensed driver who is at least 21 years of age at all times while such driver is operating a motor vehicle; During the learner’s permit and intermediate stages, in addition to any other penalties imposed by State law, an automatic delay in the grant of

an unrestricted driver's license for any individual who, during either of those stages, is convicted of a driving-related offense, including driving while intoxicated, misrepresentation of his or her true age, reckless driving, driving without wearing a seat belt, speeding, and any other driving-related offense as determined by the Agency.

MAP-21 requires NHTSA to promulgate regulations necessary to implement the minimum qualification criteria for the GDL program in accordance with the notice and comment provisions under 5 U.S.C. 553. Accordingly, this notice seeks public comment on the minimum qualification criteria set forth above. For example, should the agency adopt all or only some of the additional criteria identified in MAP-21? Are there any further criteria that should be adopted? Commenters are directed to the MAP-21 amendments to 23 U.S.C. 405 (specifically, new section 405(g)(2)), set forth in section 31105 of MAP-21, for the full text of these qualification criteria. NHTSA will consider all timely comments in developing a rule implementing the GDL requirements under MAP-21.

III. Public Participation

MAP-21 requires NHTSA to implement regulations creating a single application process for both the Section 405 grant applications and applications for Highway Safety Grants under 23 U.S.C. 402, to be included in the State Highway Safety Plan that is used currently by the States to apply for the Section 402 grants, and further establishes a single deadline for such applications to enable the award of grants early in the fiscal year (FY). NHTSA intends to issue regulations as expeditiously as possible to provide sufficient lead time for States to develop and submit applications and receive FY 2013 grant funds as early as practicable in that fiscal year, as well as provide lead time for FY 2014 grant

applications, which are due on July 1, 2013, as specified by MAP-21. Because of these deadlines, NHTSA is operating under an aggressive schedule to issue the new regulations required by MAP-21.

NHTSA plans to consider all public comments on the GDL criteria timely received under this notice in the course of implementing the GDL requirements under MAP-21. The agency plans to combine, in one rule, the GDL requirements that are the subject of today's notice with the MAP-21 requirements for the Section 402 program grants and the other Section 405 program grants. In that rule, NHTSA will also address the application process, qualification criteria, and use of grant funds by the States, as well as any other relevant requirements and information for the implementation of the new grant programs. In order to ensure that NHTSA has adequate time to take into account all comments submitted in response to this NPRM and to issue a rule that provides the States sufficient lead time to prepare applications for all grants under MAP-21, NHTSA has limited the comment period for today's notice to 20 days. (See DATES section.)

A. How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long. (*See* 49 CFR § 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your primary comments. There is no limit on the length of the attachments.

Please submit your comments, including the attachments, to Docket Management by any of the methods given above under ADDRESSES.

If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions. Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

B. How can I be sure my comments were received?

If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

C. Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under DATES. To the extent possible, we will also consider comments that Docket Management receives after that date. If a comment is received too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

D. How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (e.g., the comments submitted in response to this document by other interested persons) at any time by going to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by

going to the street address given above under ADDRESSES. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays. Some people may submit late comments. Accordingly, we recommend that you periodically check the docket for new material.

IV. Statutory Basis for this Action

The agency's proposal would implement the State GDL Incentive Grant program created by section 31105 of the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112-141), which requires the Department of Transportation to issue implementing regulations for national priority safety programs, including the State GDL Incentive Grant program.

V. Regulatory Analyses and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563, and DOT Regulatory Policies and Procedures

The agency has considered the impact of this rulemaking action under E.O. 12866, E.O. 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking was not reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." The rulemaking action has also been determined to be not significant under the Department's regulatory policies and procedures. (44 FR 11034; February 26, 1979).

Today's NPRM only seeks public comment on the minimum qualification criteria for the State Graduated Driver Licensing Incentive Grant program authorized under MAP-21. NHTSA will consider any comments it receives as it develops a rule that combines the GDL requirements that are the subject of today's notice with the MAP-21

requirements for the Section 402 and Section 405 grant programs. The minimum qualification criteria addressed in this rule affect only the State GDL Incentive Grant program, and the funds to be distributed under that program total no more than \$13.25 million in fiscal year 2013 and \$13.6 million in fiscal year 2014.

The agency concludes that the impacts of this proposed action are so minimal that preparation of a full regulatory evaluation is not required. However, the agency does expect safety benefits resulting from the implementation of conforming GDL systems by States.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act (SBREFA) amended the RFA to require Federal agencies to provide a statement of the factual basis for certifying that an action would not have a significant economic impact on a substantial number of small entities.

This NPRM is for a rulemaking that will implement a new grant program enacted by Congress in MAP-21. Under this new Federal program, States will receive grant funds if they adopt compliant GDL systems. This program will affect only State governments, which are not considered to be small entities as that term is defined by the RFA. Therefore, I certify that this action will not have a significant impact on a

substantial number of small entities and find that the preparation of a Regulatory Flexibility Analysis is unnecessary.

C. Executive Order 13132 (Federalism)

Executive Order 13132 on "Federalism" requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." 64 FR 43255 (August 10, 1999). "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, an agency may not issue a regulation with Federalism implications that imposes substantial direct compliance costs and that is not required by statute unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or the agency consults with State and local governments in the process of developing the proposed regulation. An agency also may not issue a regulation with Federalism implications that preempts a State law without consulting with State and local officials.

The agency has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132, and has determined that this proposed rule would not have sufficient Federalism implications as defined in the order to warrant formal consultation with State and local officials or the preparation of a federalism summary impact statement. However, NHTSA continues to engage with state representatives regarding general implementation of MAP-21, including this grant

program, and expects to continue these informal dialogues in connection with the forthcoming consolidated grant regulations mandated by MAP-21.

D. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988 (61 FR 4729 (February 7, 1996)), "Civil Justice Reform," the agency has considered whether this proposed rule would have any retroactive effect. I conclude that it would not have any retroactive or preemptive effect, and judicial review of it may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review. This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, as implemented by the Office of Management and Budget (OMB) in 5 CFR part 1320, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act. Although MAP-21 requires the submission of applications for the State GDL Incentive Grant, the application procedures will be addressed in a subsequent and separate rulemaking action. This NPRM only solicits public comment on minimum grant qualification criteria.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in expenditures by State, local or

tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted annually for inflation with base year of 1995). This proposal would not meet the definition of a Federal mandate because the resulting annual State expenditures would not exceed the minimum threshold. The program is voluntary and States that choose to apply and qualify would receive grant funds.

G. National Environmental Policy Act

NHTSA has considered the impacts of this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that this proposal would not have a significant impact on the quality of the human environment.

H. Executive Order 13175 (Consultation and Coordination With Indian Tribes)

The agency has analyzed this proposal under Executive Order 13175, and has determined that the proposed action would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

I. Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in or about April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

J. Privacy Act

Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the *Federal Register* published on April 11, 2000 (65 FR19477) or you may visit <http://dms.dot.gov>.

Authority: Pub. L. 112-141, Section 31105; 23 U.S.C. 405(g) (as set forth in MAP-21); delegation of authority at 49 CFR §§ 1.94 and 1.95.

Issued on: October 1, 2012

Ronald Medford

Deputy Administrator

National Highway Traffic Safety Administration

Billing Code 4910-59-P

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